

State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3485/0

RNK:.....

PG

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

js

D-Note

Gen Cat

energy and environmental
design standards for school
district facilities

1 AN ACT...; relating to: energy conservation standards for the construction of
2 certain buildings, standards for the construction and use of graywater systems,
3 ~~and~~ granting rule-making authority and making an appropriation

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 101.025 (4) (intro.) of the statutes is amended to read:

5 101.025 (4) (intro.) For ventilation systems in public buildings and places of
6 employment, the department shall ~~adopt~~ promulgate rules setting that incorporate
7 standard 62.1-2007 of the American Society of Heating, Refrigerating and Air
8 Conditioning Engineers and that set all of the following:

History: 1979 c. 221; 1981 c. 341.

9 SECTION 2. 101.027 (2) of the statutes is amended to read:

1 101.027 (2) The department shall review the energy conservation code and
2 shall promulgate rules that change the requirements of the energy conservation code
3 to improve energy conservation. No rule may be promulgated that has not taken into
4 account the cost of the energy conservation code requirement, as changed by the rule,
5 in relationship to the benefits derived from that requirement, including the
6 reasonably foreseeable economic and environmental benefits to the state from any
7 reduction in the use of imported fossil fuel. The proposed rules changing the energy
8 conservation code shall be submitted to the legislature in the manner provided under
9 s. 227.19. In conducting a review under this subsection, the department shall
10 ~~consider incorporating~~ incorporate, into the energy conservation code, design
11 requirements from standard 90.1-2007 of the most current national energy
12 efficiency design standards, including the International Energy Conservation Code
13 ~~or an energy efficiency code other than the International Energy Conservation Code~~
14 ~~if that energy efficiency code is used to prescribe design requirements for the purpose~~
15 ~~of conserving energy in buildings and is generally accepted and used by engineers~~
16 ~~and the construction industry~~ American Society of Heating, Refrigerating and Air
17 Conditioning Engineers.

History: 1993 a. 242; 2005 a. 141. ✓

18 **SECTION 3.** 101.027 (3) (a) 1. of the statutes is amended to read: ✕

19 101.027 (3) (a) 1. A revision of standard 90.1-2007 of the International Energy
20 Conservation Code American Society of Heating, Refrigerating and Air Conditioning
21 Engineers is published.

History: 1993 a. 242; 2005 a. 141. ✓

22 **SECTION 4.** 101.027 (3) (b) 1. of the statutes is amended to read: ✕

23 101.027 (3) (b) 1. If the department begins a review under sub. (2) because a
24 revision of standard 90.1-2007 of the International Energy Conservation Code

American Society of Heating, Refrigerating and Air Conditioning Engineers is published, the department shall complete its review of the energy conservation code, as defined in sub. (1), and submit to the legislature proposed rules changing the energy conservation code, as defined in sub. (1), no later than 18 months after the date on which the revision of standard 90.1-2007 of the International Energy Conservation Code American Society of Heating, Refrigerating and Air Conditioning Engineers published.

History: 1993 a. 242; 2005 a. 141.

SECTION 5. 101.12 ^(2m) of the statutes is created to read: ^(2m)

101.12 ^(1m) The department ^{or accept} may not approve ^{or plans} essential drawings, calculations, ^{or} specifications for public buildings, public structures, or places of employment unless the drawings, calculations, ^{and plans} and specifications conform at a minimum to standard 189 of the American Society of Heating, Refrigeration and Air Conditioning Engineers.

****NOTE: Because standard 189 is not yet final, the reference to this standard in this provision does not include a publication year. This raises a constitutional question about whether the reference to a nonfinal standard of a private organization is an improper delegation of legislative authority to that private organization.

SECTION 6. 101.65 (1) (a) (intro.) of the statutes is amended to read: [✓]

101.65 (1) (a) (intro.) Exercise jurisdiction over the construction and inspection of new dwellings by passage of ordinances, provided such ordinances meet the requirements of the one- and 2-family dwelling code adopted in accordance with this subchapter. An ordinance under this paragraph may exceed the requirements of the one- and 2- family dwelling code that relate to energy conservation in the construction of new dwellings. Except as provided by s. 101.651, a county ordinance shall apply in any city, village or town which has not enacted such ordinance.

History: 1975 c. 404; 1979 c. 221 s. 2025 (12); 1979 c. 355 s. 238; 1981 c. 20; 1993 a. 126; 1999 a. 150 s. 672; 2005 a. 200.

SECTION 7. 145.133 of the statutes is created to read: ³⁻²¹

1 **145.133 Graywater systems. (1)** In this section, "graywater" means

2 wastewater generated from the residential use of a clothes washer, sink, shower, or
3 bathtub.

****NOTE: Is this definition consistent with your intent?

4 **(2)** The department shall promulgate rules that establish standards for the
5 installation and use of graywater systems for the reuse of graywater within the
6 boundary of the property from which the graywater was generated.

****NOTE: Your instructions with regard to graywater systems referred to a number
of statute models from other states and organizations. If you would like this provision
to provide more specific guidance to the department of Commerce about the requirements
of such systems, please let me know what you would like these requirements to include.

7 ~~END~~



LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

1-4

(9)

SEC.#.

CR.

20.255

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LEED

fees.

A sum

sufficient to pay LEED registration and certification
fees on behalf of school districts under

✓ s- 120.24.

3-21:1



Section #. 119.04 (1) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c), 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.365 (3), 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (25), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35), (37), (37m), and (38), 120.14, 120.21 (3), and 120.25 are applicable to a 1st class city school district and board.

120.24

History: 1971 c. 152 s. 38; 1971 c. 154 s. 80; 1973 c. 89 s. 20 (1); 1973 c. 90; 1973 c. 188 s. 6; 1973 c. 243, 254, 290, 307, 333; 1975 c. 39, 41, 95, 220, 379, 395, 422; 1977 c. 29; 1977 c. 203 s. 106; 1977 c. 206, 284, 447; 1979 c. 20; 1979 c. 34 s. 2102 (43) (a); 1979 c. 221, 298, 331; 1979 c. 346 s. 15; 1979 c. 355; 1981 c. 59; 1981 c. 241 s. 4; 1983 a. 193; 1983 a. 339 s. 10; 1983 a. 374 s. 12; 1983 a. 412, 489, 538; 1985 a. 29 s. 3202 (43); 1985 a. 56 s. 43; 1985 a. 214 s. 4; 1985 a. 225, 332; 1987 a. 27, 187, 285, 386, 403; 1989 a. 31, 120, 121, 122, 201, 209, 359; 1991 a. 39, 42, 189, 269; 1993 a. 16, 334, 377, 491; 1995 a. 27, 225; 1997 a. 27, 77, 113, 240, 252, 335; 1999 a. 9, 32, 73; 1999 a. 150 ss. 631, 672; 1999 a. 186; 2005 a. 99, 290, 346; 2007 a. 20, 97, 220, 222; 2009 a. 28.

BILL

2. Except as provided in subd. 3., the building commission shall not enter into an agreement for the purchase of or for the lease of, or renewal of a lease of, with option to purchase, an office facility that is constructed or to be constructed, repaired, renewed, renovated, or expanded for occupancy by any board, agency, officer, department, commission, or body corporate, regardless of the funding source of the agreement, if the facility after construction, repair, renewal, renovation, or expansion will contain at least 5,000 square feet of office space for occupancy by any such entity unless the department of administration certifies that the facility conforms at a minimum to the LEED silver standard, as defined in s. 16.856 (1) (c), for construction projects.

3. If the department of administration reports to the building commission that compliance with subd. 1. or 2. with respect to any project or agreement is not technically feasible, the commission shall determine whether it concurs with the assessment of the department. If so, the commission may authorize the department to proceed with the design or construction of the project or may enter into the agreement. The commission shall report to the appropriate standing committees of the legislature under s. 13.172 (3) the reasons for its determination with respect to that project or agreement. If not, the department shall not approve the design or construction of the facility and the commission shall not enter into the agreement until the department makes a certification under subd. 1. or 2.

SECTION 2. ^{120.24} ~~16.856~~ of the statutes is created to read:

^{(B) 120.24} ~~16.856~~ Energy and environmental design standards for ^{(B) school district} ~~state office~~ facilities. (1) In this section:

(a) "Major construction project" means a project for the construction of a ~~state~~ building containing at least ^{10,000} ~~5,000~~ square feet of enclosed ~~office~~ space ~~or for the~~

BILL

1 repair, renewal, renovation, or expansion of an existing state building that will, upon
2 completion of the project, contain at least 5,000 square feet of enclosed office space
3 and that has a cost that equals at least 50 percent of the replacement cost of the
4 building on the date that construction of the project is approved by the department,
5 or if approval by the building commission is required, on the date that construction
6 of the project is approved by the building commission. ←

7 (b) "LEED building rating system" means the rating system of the U.S. Green
8 Building Council designated as the leadership in energy and environmental design
9 system or its successor system as determined by the department.

10 (c) "LEED silver standard" means the LEED building rating system standard
11 designated by the U.S. Green Building Council as the silver standard in effect on the
12 effective date of this paragraph [LRB inserts date], or its successor standard as
13 determined by the department.

14 (2) ~~(a) Except as provided in par. (b), the department~~ ^{Each school board} shall ensure that the plans
15 and specifications for each major construction project conform at a minimum to the
16 LEED silver standard of construction.

17 (b) If the department determines with respect to any major construction project
18 that compliance with par. (a) is not technically feasible, the department shall report
19 to the building commission the reasons therefor and obtain the approval of the
20 building commission to proceed with design of the project prior to completion of
21 design for the project.

SECTION 3. Initial applicability.

22
23 (1) ~~The treatment of section 1-148 (2) (a) of the statutes, as created by this act,~~
24 first applies with respect to projects approved and leases entered into on the effective
25 date of this subsection.

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

(3-21:4)

(4) (B) Upon request, the department shall
 (3) Upon request, the department shall
 pay necessary LEED registration and
 phy necessary registration and
 certification fees for a major construction project
 certification fees on behalf of a
 school district.
 school district. ~~for a major construction~~

The department shall pay the fees from
 the appropriation under s. 20.255(2)(ed).
 the appropriation under s. 20.255(2)(ed).

2009

Nonstat File Sequence:

EEE

LRB _____/_____
_____:_____:_____

INITIAL APPLICABILITY

- In the component bar:
For the action phrase, execute: create → action: → *NS: → inappl
For the budget action phrase, execute: create → action: → *NS: → 93XX
For the text, execute: create → text: → *NS: → inappl
- Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9300 department code.

SECTION # 93 Initial applicability;

The treatment of sections ...
of the statutes
first applies to

- In the component bar:
For the action phrase, execute: create → action: → *NS: → inappl
For the text, execute: create → text: → *NS: → inapplA
- Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed.

SECTION # _____ . Initial applicability;

(#1) () This act first
applies to

BILL

← auto number
not
hard number

120.24

1 (1) ~~(2)~~ The treatment of section ~~16.24~~ of the statutes, as created by this act, first
2 applies with respect to projects for which design is commenced on the effective date
3 of this subsection.

4 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3485/?dn

RNK:.....

JS

- late -

This draft is in preliminary form. The provisions in this draft address items (3) and (4) of your instructions. A later version of this draft will address the remaining items.

This draft includes a requirement that the Department of Commerce promulgate certain rules. You may want the next version of the draft to include a deadline for rule-making.

Robin N. Kite
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3485/P1dn
RNK:cjs:ph

October 1, 2009

This draft is in preliminary form. The provisions in this draft address items (3) and (4) of your instructions. A later version of this draft will address the remaining items.

This draft includes a requirement that the Department of Commerce promulgate certain rules. You may want the next version of the draft to include a deadline for rule-making.

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(DRAFT)
State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3485/1

JTK/RNK/PG:cjs:ph

slays

TUE afternoon or
WED morning

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA ☒

1 AN ACT ^(regenerate) to amend 101.025 (4) (intro.), 101.027 (2), 101.027 (3) (a) 1., 101.027 (3)
2 (b) 1., 101.65 (1) (a) (intro.) and 119.04 (1); and to create 20.255 (2) (ed), 101.12
3 (2m), 120.24 and 145.133 of the statutes; relating to: energy conservation
4 standards for the construction of certain buildings, energy and environmental
5 design standards for school district facilities, standards for the construction
6 and use of graywater systems, granting rule-making authority, and making an
7 appropriation.

④ This analysis is not complete. A complete analysis will be provided in a later version.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. This analysis is not complete. A complete analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.255 (2) (ed) of the statutes is created to read:

20.255 (2) (ed) *LEED fees*. A sum sufficient to pay LEED registration and certification fees on behalf of school districts under s. 120.24.

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D.8

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INS 1-9

INS 1-10

1 **SECTION 2.** 101.025 (4) (intro.) of the statutes is amended to read:

2 101.025 (4) (intro.) For ventilation systems in public buildings and places of
3 employment, the department shall ~~adopt~~ promulgate rules ~~setting that incorporate~~
4 standard 62.1-2007 of the American Society of Heating, Refrigerating and Air
5 Conditioning Engineers and that set all of the following:

6 **SECTION 3.** 101.027 (2) of the statutes is amended to read:

7 101.027 (2) The department shall review the energy conservation code and
8 shall promulgate rules that change the requirements of the energy conservation code
9 to improve energy conservation. No rule may be promulgated that has not taken into
10 account the cost of the energy conservation code requirement, as changed by the rule,
11 in relationship to the benefits derived from that requirement, including the
12 reasonably foreseeable economic and environmental benefits to the state from any
13 reduction in the use of imported fossil fuel. The proposed rules changing the energy
14 conservation code shall be submitted to the legislature in the manner provided under
15 s. 227.19. In conducting a review under this subsection, the department shall
16 ~~consider incorporating~~ incorporate, into the energy conservation code, design
17 requirements from standard 90.1-2007 of the ~~most current national energy~~
18 ~~efficiency design standards, including the International Energy Conservation Code~~
19 ~~or an energy efficiency code other than the International Energy Conservation Code~~
20 ~~if that energy efficiency code is used to prescribe design requirements for the purpose~~
21 ~~of conserving energy in buildings and is generally accepted and used by engineers~~
22 ~~and the construction industry~~ American Society of Heating, Refrigerating and Air
23 Conditioning Engineers.

24 **SECTION 4.** 101.027 (3) (a) 1. of the statutes is amended to read:

1 101.027 (3) (a) 1. A revision of standard 90.1-2007 of the International Energy
2 Conservation Code American Society of Heating, Refrigerating and Air Conditioning
3 Engineers is published.

4 **SECTION 5.** 101.027 (3) (b) 1. of the statutes is amended to read:

5 101.027 (3) (b) 1. If the department begins a review under sub. (2) because a
6 revision of standard 90.1-2007 of the International Energy Conservation Code
7 American Society of Heating, Refrigerating and Air Conditioning Engineers is
8 published, the department shall complete its review of the energy conservation code,
9 as defined in sub. (1), and submit to the legislature proposed rules changing the
10 energy conservation code, as defined in sub. (1), no later than 18 months after the
11 date on which the revision of standard 90.1-2007 of the International Energy
12 Conservation Code American Society of Heating, Refrigerating and Air Conditioning
13 Engineers published.

14 **SECTION 6.** 101.12 (2m) of the statutes is created to read:

15 101.12 (2m) The department may not approve or accept essential drawings,
16 calculations, specifications, or plans for public buildings, public structures, or places
17 of employment unless the drawings, calculations, specifications, and plans conform
18 at a minimum to standard 189 of the American Society of Heating, Refrigeration and
19 Air Conditioning Engineers.

 ****NOTE: Because standard 189 is not yet final, the reference to this standard in
this provision does not include a publication year. This raises a constitutional question
about whether the reference to a nonfinal standard of a private organization is an
improper delegation of legislative authority to that private organization.

20 **SECTION 7.** 101.65 (1) (a) (intro.) of the statutes is amended to read:

21 101.65 (1) (a) (intro.) Exercise jurisdiction over the construction and inspection
22 of new dwellings by passage of ordinances, provided such ordinances meet the
23 requirements of the one- and 2-family dwelling code adopted in accordance with this

1 subchapter. An ordinance under this paragraph may exceed the requirements of the
2 one- and 2-family dwelling code that relate to energy conservation in the
3 construction of new dwellings. Except as provided by s. 101.651, a county ordinance
4 shall apply in any city, village or town which has not enacted such ordinance.

5 **SECTION 8.** 119.04 (1) of the statutes, as affected by 2009 Wisconsin Act 28, is
6 amended to read:

7 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
8 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
9 115.345, 115.361, 115.365 (3), 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045,
10 118.06, 118.07, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153,
11 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6)
12 and (8), 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12
13 (5) and (15) to (25), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34),
14 (35), (37), (37m), and (38), 120.14, 120.21 (3), 120.24, and 120.25 are applicable to a
15 1st class city school district and board.

16 **SECTION 9.** 120.24 of the statutes is created to read:

17 **120.24 Energy and environmental design standards for school district**
18 **facilities.** (1) In this section:

19 (a) "Major construction project" means a project for the construction of a
20 building containing at least 10,000 square feet of enclosed space.

21 (b) "LEED building rating system" means the rating system of the U.S. Green
22 Building Council designated as the leadership in energy and environmental design
23 system or its successor system as determined by the department.

24 (c) "LEED silver standard" means the LEED building rating system standard
25 designated by the U.S. Green Building Council as the silver standard in effect on the

1 effective date of this paragraph [LRB inserts date], or its successor standard as
2 determined by the department.

3 (2) Each school board shall ensure that the plans and specifications for each
4 major construction project conform at a minimum to the LEED silver standard of
5 construction.

6 (3) Upon request, the department shall pay necessary LEED registration and
7 certification fees for a major construction project on behalf of a school district. The
8 department shall pay the fees from the appropriation under s. 20.255 (2) (ed).

9 **SECTION 10.** 145.133 of the statutes is created to read:

10 **145.133 Graywater systems.** (1) In this section, "graywater" means
11 wastewater generated from the residential use of a clothes washer, sink, shower, or
12 bathtub.

***NOTE: Is this definition consistent with your intent?

13 (2) The department shall promulgate rules that establish standards for the
14 installation and use of graywater systems for the reuse of graywater within the
15 boundary of the property from which the graywater was generated.

***NOTE: Your instructions with regard to graywater systems referred to a number
of statute models from other states and organizations. If you would like this provision
to provide more specific guidance to the Department of Commerce about the
requirements of such systems, please let me know what you would like these
requirements to include.

16 **SECTION 11. Initial applicability.**

17 (1) The treatment of section 120.24 of the statutes first applies with respect to
18 projects for which design is commenced on the effective date of this subsection.

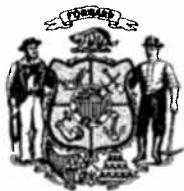
(END)

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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0341/3

JTK:kjf:md

2009 BILL

- 1 ~~AN ACT to create~~ 13.48 (2) (jm) and 16.856 of the statutes; ~~relating to:~~ energy
2 and environmental design standards for state office facilities. ⁽⁵⁾

Analysis by the Legislative Reference Bureau

Currently, with certain exceptions, the Department of Administration (DOA) must ensure that the specifications for each state construction project require the use of recovered and recycled materials to the extent that such use is technically and economically feasible. With certain exceptions, DOA must also prescribe and enforce energy efficiency standards for energy consuming equipment that is installed in connection with state construction projects. The standards must meet or exceed specified statutory standards. The Building Commission must also apply these standards when entering into certain leases on behalf of the state. Current law also requires the commission to employ a design for cogeneration of steam and electricity in state-owned central steam generating facilities unless the commission determines that such a design is not cost-effective and technically feasible. Currently, the commission must also ensure that state-operated steam generating facilities are designed to allow the use of biomass fuels and refuse-derived fuels to the greatest extent cost-effective and technically feasible. In addition, under current law, the commission is prohibited from approving the construction or major remodeling of or addition to any state building or structure unless the building or structure makes maximum practical use of passive solar energy system design elements and, unless not technically or economically feasible, incorporates an active solar energy system or photovoltaic solar energy system or other renewable energy system.

BILL

SWS G cont'd.

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new

office

This bill directs DOA and the Building Commission to ensure that the plans and specifications for each ~~major construction~~ project for any state facility containing at least ~~5,000~~ square feet of office space conform at a minimum to the silver standard for energy and environmental design in construction projects as prescribed by the U.S. Green Building Council as of the day the bill becomes law. ~~The bill, however,~~

~~exempts any project from compliance with the requirement if DOA determines that compliance is not technically feasible. In such case, the bill directs DOA to report to the Building Commission the reasons for its determination and to obtain the approval of the commission before proceeding with the design or construction of the project.~~

The bill also directs the commission to enforce compliance with the bill's requirements with respect to all ~~state construction projects for~~ facilities containing at least ~~5,000~~ square feet of office space ~~and all private construction projects for such facilities that are~~ purchased by the state under a purchase agreement or ~~are~~ performed for the state under a lease agreement with option to purchase. ~~Under the bill, if the commission concurs with DOA's determination that compliance with the bill's requirements with respect to any project or agreement is not technically feasible, the commission must report the reasons for its determination to the appropriate standing committees of the legislature.~~

For further information see the ~~state~~ fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SWS 1-B

SECTION 1. 13.48 (2) (jm) of the statutes is created to read:

13.48 (2) (jm) 1. ~~Except as provided in subd. 3.,~~ the building commission shall

not approve the design or construction of any project for the construction ~~repair~~

~~renewal, renovation or expansion~~ of ~~an office~~ ^{any} facility for a board, agency, officer,

department, commission, or body corporate, ~~regardless of the funding source of the~~

~~project~~ if the facility after construction ~~repair, renewal, renovation, or expansion~~

will contain at least ~~5,000~~ ^{10,000 gross} square feet of office space for occupancy by any such entity

~~regardless of the funding source of the project~~ unless the department of administration certifies that the project conforms at a

minimum to the LEED silver standard, as defined in s. 16.856 (1) (c), for construction

projects.

or for the repair, renewal, renovation, or expansion of any existing facility for any such entity ^{occupancy by} regardless of the funding source of the project if the facility contains at least 10,000 gross square feet of enclosed office space and the project affects more than 50 percent of the existing gross square feet of enclosed office space in the facility

the construction
repair
renewal
renovation
or
expansion
is

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1 ~~2. Except as provided in subd. 3.,~~ the building commission shall not enter into
 2 an agreement for the purchase of or for the lease of, or renewal of a lease of, with
 3 option to purchase, ~~on an office facility~~ ^{any} facility that is constructed or to be constructed, ~~repaired,~~
 4 ~~renewed, renovated, or expanded~~ for occupancy by any board, agency, officer,
 5 department, commission, or body corporate, ~~regardless of the funding source of the~~
 6 ~~agreement,~~ if the facility after construction, ~~repair, renewal, renovation, or~~
 7 ~~expansion~~ ^{10,000 gross} will contain at least ~~5,000~~ square feet of office space for occupancy by any
 8 such entity, unless the department of administration certifies that the facility
 9 conforms ^{or will after construction, repair, renewal, renovation or expansion} at a minimum to the LEED silver standard, as defined in s. 16.856 (1) (c), ^{conform}
 10 for construction projects.

end INS 1-B

11 3. If the department of administration reports to the building commission that
 12 compliance with subd. 1. or 2. with respect to any project or agreement is not
 13 technically feasible, the commission shall determine whether it concurs with the
 14 assessment of the department. If so, the commission may authorize the department
 15 to proceed with the design or construction of the project or may enter into the
 16 agreement. The commission shall report to the appropriate standing committees of
 17 the legislature under s. 13.172 (3) the reasons for its determination with respect to
 18 that project or agreement. If not, the department shall not approve the design or
 19 construction of the facility and the commission shall not enter into the agreement
 20 until the department makes a certification under subd. 1. or 2.

INS 1-10

SECTION 2. 16.856 of the statutes is created to read:

16.856 Energy and environmental design standards for state office

facilities. (1) In this section:

(a) "Major construction project" means a project for the construction of a state
 building ^{existing gross square feet of} containing at least ~~5,000~~ ^{10,000 gross} square feet of enclosed office space ^{that}

or ~~for any~~ facility that is to be repaired, renewed, renovated,
 or expanded for occupancy by any such entity if the facility
 contains at least 10,000 gross square feet of enclosed office space and
 the repair, renewal, renovation, or expansion affects more than 50 percent
 of the enclosed office space in the facility, regardless of the funding source of the

agreement

BILL

1-10

1 ~~repair, renewal, renovation, or expansion of an existing state building that will, upon~~
2 completion of the project, contain at least ~~5,000~~ ^{10,000 gross} square feet of enclosed office space
3 ~~or for the repair, renewal, renovation, or expansion of an existing~~
4 ~~and that has a cost that equals at least 50 percent of the replacement cost of the~~
5 ~~state building containing at least 10,000 gross square feet of enclosed~~
6 ~~building on the date that construction of the project is approved by the department,~~
7 ~~office space that affects more than 50 percent of the existing gross~~
8 ~~or if approval by the building commission is required, on the date that construction~~
9 ~~square feet of enclosed office space in that building.~~
10 of the project is approved by the building commission.

11 (b) "LEED building rating system" means the rating system of the U.S. Green
12 Building Council designated as the leadership in energy and environmental design
13 system or its successor system as determined by the department.

14 (c) "LEED silver standard" means the LEED building rating system standard
15 designated by the U.S. Green Building Council as the silver standard in effect on the
16 effective date of this paragraph [LRB inserts date], or its successor standard as
17 determined by the department.

18 (2) ^{office} ~~(a) Except as provided in par. (b),~~ the department shall ensure that the plans
19 and specifications for each major construction project conform at a minimum to the
20 LEED silver standard of construction.

end INS 1-10

21 (b) If the department determines with respect to any major construction project
22 that compliance with par. (a) is not technically feasible, the department shall report
23 to the building commission the reasons therefor and obtain the approval of the
24 building commission to proceed with design of the project prior to completion of
25 design for the project.

~~SECTION 3. Initial applicability.~~

26 (1) The treatment of section 13.48 (2) (jm) of the statutes, as created by this act,
27 first applies with respect to projects approved and ~~leaves~~ entered into on the effective
28 date of this subsection.

agreements

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(2) The treatment of section 16.856 of the statutes, ²as created by this act, first applies with respect to projects for which design is commenced on the effective date of this subsection.

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4

(END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3485/P2ins2
JTK.....

INS 5-15:

→ **SECTION 1. Nonstatutory provisions.**

→ (1) No later than the 30th day beginning after the effective date of this subsection, the Department of Administration shall file with the Legislative Reference Bureau a copy of the text of the standards specified in sections 13.48 (15) (b) 1. and 16.856 (1) (c) of the statutes, as created by this act. Upon receipt of the copy, the Legislative Reference Bureau shall publish in the Wisconsin Administrative Register a notice that the text of the standards are on file at the offices of the department and the bureau. ✓

*LPS:
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2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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INS B:

no 9

operation and maintenance of state office facilities, leasing of state office facilities,

INS D:

Under current law, DOA has managerial responsibility for the operation and maintenance of state office buildings. With certain exceptions, DOA and other state agencies to which DOA delegates purchasing authority must write purchasing specifications that incorporate requirements for the purchase of products made from recycled and recovered materials if their use is technically and economically feasible. DOA and other agencies and certain state authorities making purchases must, to the extent practicable, using these specifications. Specific requirements for recycled or recovered content also apply, without exception, to all paper purchases by these agencies and authorities. In addition, currently, each state agency that has building or energy management responsibilities must, to the extent cost-effective and technically feasible, rely upon energy systems that utilize fuels produced in this state.

This bill directs DOA to promulgate, apply, and enforce rules that require the environmentally sustainable operation and maintenance of all state office facilities. The rules must specifically address cleaning, purchasing, waste minimization and recycling, energy and water usage efficiency, and light pollution minimization. The rules supercede existing related requirements and unlike current requirements, apply without exception.

Currently, DOA has responsibility for the negotiation and administration of leases of real property by this state, except as otherwise provided by law. The Building Commission has authority to approve leases of real property by the state, except as otherwise provided by law. This bill directs DOA, before entering into any lease, or renewing or extending any lease, for improved real property to be used for office facilities, to require the prospective lessor to disclose the energy use intensity for the total property and the annual energy usage for the total property, calculated in accordance with Energy Star standards, as prescribed by the U.S. Department of Energy on the day the bill becomes law, and to verify and forward that information to the Building Commission. The bill also directs DOA to require other state agencies that have authority to enter into leases for improved real property to obtain and forward the same information to the Building Commission before entering into, or renewing or extending, any lease for property to be used for office facilities. The bill then prohibits the Building Commission from approving any lease for improved real property to be used for office facilities unless DOA certifies to the commission that the energy use intensity for the total property and the annual energy usage for the total property conform to Energy Star standards. In addition, the bill directs the

real

Environmental
Protection Agency

Building Commission to require other state agencies that have authority to enter into leases for improved real property, to certify to the commission, before entering into, or renewing or extending, any lease for property to be used for office facilities, that the energy use intensity for the total property and the annual energy usage for the total property conform to Energy Star standards.

FE - S

INS E:

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, or for the repair, renewal, renovation, or expansion of any existing facility for occupancy by any state entity if the facility contains at least 10,000 square feet of enclosed office space and the project affects more than 50 percent of the existing gross square feet of enclosed office space in the facility

INS F:

no 9

that are to be constructed and all existing facilities that are to be repaired, renewed, renovated, or expanded for occupancy by any state entity if the facilities contain at least 10,000 gross square feet of enclosed office space and the repair, renewal, renovation, or expansion affects more than 50 percent of the enclosed office space in the facilities, if the facilities are

INS 1-9:

SECTION 1. 13.48 (15) of the statutes is renumbered 13.48 (15) (a) and amended

to read:

13.48 (15) (a) Subject to the requirements of par. (b) and s. 20.924 (1) (i), the building commission shall have the authority to acquire leasehold interests in land and buildings where such authority is not otherwise provided to an agency by law.

History: 1971 c. 125; 1973 c. 90; 1973 c. 243 s. 82; 1973 c. 335 s. 13; 1975 c. 39, 40, 198, 199; 1977 c. 26; 1977 c. 29 ss. 7, 8r, 1654 (8) (c); 1977 c. 325; 1977 c. 418 ss. 5, 5m, 924 (18) (c); 1979 c. 34, 221, 350; 1981 c. 341; 1983 a. 27 ss. 11 to 12n, 2202 (5); 1983 a. 36 ss. 18 to 20, 96 (3); 1983 a. 207; 1985 a. 29, 120; 1987 a. 27, 186, 395, 399; 1989 a. 31, 366; 1991 a. 39, 269, 315; 1993 a. 16, 288, 414; 1995 a. 27, 216, 225, 227; 1997 a. 5, 27, 35, 237; 1999 a. 9; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 16, 103; 2003 a. 33 ss. 25 to 26i, 9160; 2003 a. 91; 2005 a. 25, 253, 391; 2007 a. 20; 2009 a. 28.

SECTION 2. 13.48 (15) (b) of the statutes is created to read:

13.48 (15) (b) 1. In this subsection, "Energy Star standards" means the standards prescribed by the U.S. Environmental Protection Agency under 42 USC Department of Energy for energy usage in buildings under in effect on the effective date of this subsection [LRB inserts date].

paragraph

that are

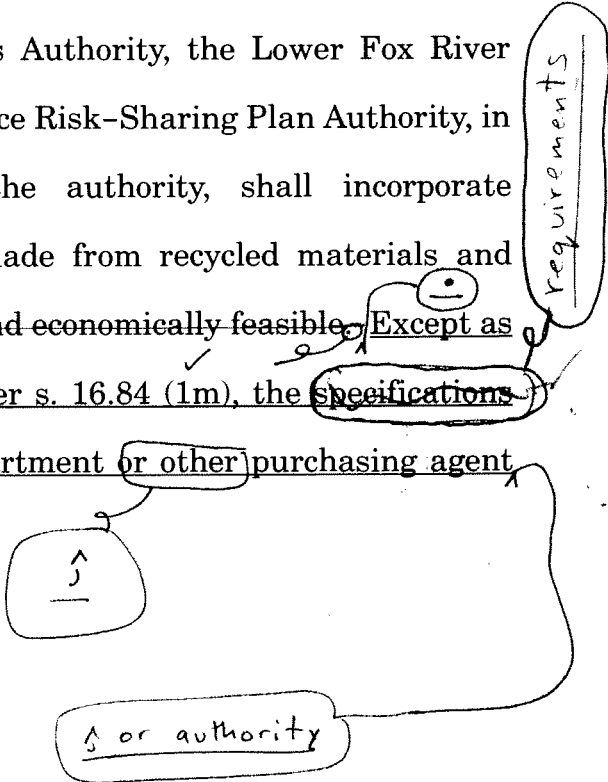
subdivision

Δ....Δ

2. The building commission shall not approve the leasing of, or the renewal or extension of any lease for, property for use as office facilities by this state unless the department of administration has certified to the commission that the energy use intensity for the total property and the annual energy usage for the total property conform to Energy Star standards. The commission shall also require other agencies, as defined in s. 16.70 (1e), that have authority to lease real property, to certify to the commission, before entering into, or renewing or extending, any lease of property to be used for office facilities, that the energy use intensity for the total property and the annual energy usage for the total property conform to Energy Star standards.

✓ **SECTION 3.** 16.72 (2) (e) (intro.) of the statutes is amended to read:

16.72 (2) (e) (intro.) In Except as otherwise provided in this paragraph, in writing the specifications under this subsection, the department and any other designated purchasing agent under s. 16.71 (1) shall incorporate requirements for the purchase of products made from recycled materials and recovered materials if ~~their use is technically and economically feasible~~. Each authority other than the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox River Remediation Authority, and the Health Insurance Risk-Sharing Plan Authority, in writing specifications for purchasing by the authority, shall incorporate requirements for the purchase of products made from recycled materials and recovered materials if ~~their use is technically and economically feasible~~. Except as otherwise required in a rule promulgated under s. 16.84 (1m), the specifications under this paragraph do not apply if the department or other purchasing agent



the of products made from recycled and recovered materials would
determines that their use is not technically and economically feasible. be The
specifications shall include requirements for the purchase of the following materials:

History: 1975 c. 41; 1977 c. 418; 1981 c. 20, 350; 1983 a. 92; 1983 a. 333 ss. 3c, 3g, 3n; 3w; 1985 a. 29 ss. 122g, 3200 (1); 1985 a. 332; 1987 a. 119, 292; 1989 a. 31, 335; 1991 a. 39, 269; 1995 a. 27, 227; 1997 a. 27, 212; 1999 a. 9, 32, 105; 2001 a. 16; 2003 a. 33, 320; 2005 a. 74; 2007 a. 20.

SECTION 4. 16.75 (8) (a)1. of the statutes is amended to read:

16.75 (8) (a) 1. The Except as otherwise provided in this subdivision, the
department, any other designated purchasing agent under s. 16.71 (1), any agency
making purchases under s. 16.74, and each authority other than the University of
Wisconsin Hospitals and Clinics Authority, the Lower Fox River Remediation
Authority, and the Health Insurance Risk-Sharing Plan Authority shall, to the
extent practicable, make purchasing selections using specifications developed under
s. 16.72 (2) (e) to maximize the purchase of materials utilizing recycled materials and
recovered materials. Except as otherwise required in a rule promulgated under s.
16.84 (1m), the purchasing requirements under this subdivision do not apply if the
department, agency, or authority determines that (their application is) not
practicable.

History: 1975 c. 224; 1977 c. 418, 419; 1979 c. 34, 221, 314, 340, 355; 1979 c. 361 s. 112; 1981 c. 121 s. 20; 1983 a. 27 ss. 91, 93 to 99; 1983 a. 333 ss. 3g, 3r to 4b, 6; 1985 a. 368, 390; 1985 a. 29 ss. 122m to 124, 3200 (1); 1985 a. 180; 1987 a. 27, 119, 142, 147, 186, 399, 403; 1989 a. 31, 335, 345, 359; 1991 a. 39, 170; 1993 a. 16, 414; 1995 a. 27 ss. 368 to 382, 9116 (5); 1995 a. 225, 227, 244, 289, 432; 1997 a. 3; 1999 a. 9, 44, 197; 2001 a. 16, 38; 2003 a. 33; 2005 a. 22, 25, 74, 141, 335; 2007 a. 20 ss. 102 to 103h, 9121 (6) (a); 2007 a. 97; s. 13.92 (2) (i).

SECTION 5. 16.75 (10) of the statutes is amended to read:

16.75 (10) An Except as otherwise provided in this subsection, an agency that
has building, fleet or energy management responsibilities shall, to the extent
cost-effective and technically feasible, rely upon energy systems that utilize fuels
produced in this state. Except as otherwise required in a rule promulgated under s.
16.84 (1m), the energy management responsibilities under this subsection do not
apply if the agency having responsibility for compliance with this subsection
determines that (their use is) not cost-effective or technically feasible. In reviewing
bids for the purchase of fuels or energy systems or equipment, the agency shall

meeting those requirements would

requirements

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purchase fuel or energy systems or equipment produced in this state if the cost of the lowest responsible bid for such fuel or energy systems or equipment is no greater than the lowest responsible bid for fuel or energy systems or equipment produced outside of this state.

History: 1975 c. 224; 1977 c. 418, 419; 1979 c. 34, 221, 314, 340, 355; 1979 c. 361 s. 112; 1981 c. 121 s. 20; 1983 a. 27 ss. 91, 93 to 99; 1983 a. 333 ss. 3g, 3r to 4b, 6; 1983 a. 368, 390; 1985 a. 29 ss. 122m to 124, 3200 (1); 1985 a. 180; 1987 a. 27, 119, 142, 147, 186, 399, 403; 1989 a. 31, 335, 345, 359; 1991 a. 39, 170; 1993 a. 16, 414; 1995 a. 27 ss. 368 to 382, 9116 (5); 1995 a. 225, 227, 244, 289, 432; 1997 a. 3; 1999 a. 9, 44, 197; 2001 a. 16, 38; 2003 a. 33; 2005 a. 22, 25, 74, 141, 335; 2007 a. 20 ss. 102 to 103h, 9121 (6) (a); 2007 a. 97; s. 13.92 (2) (i).

SECTION 6. 16.84 (1m) of the statutes is created to read:

16.84 (1m) Promulgate, apply, and enforce rules that require, without exception, the environmentally sustainable operation and maintenance of all state office buildings. The rules shall specifically address cleaning, purchasing, waste minimization and recycling, energy and water usage efficiency, and light pollution minimization.

SECTION 7. 16.84 (5) of the statutes is amended to read:

16.84 (5) Have responsibility, subject to approval of the governor, for all functions relating to the leasing, acquisition, allocation and utilization of all real property by the state, except where such responsibility is otherwise provided by the statutes. In this connection, the Prior to entering into any lease, or renewing or extending any lease ^{for} property to be used for office facilities, the department shall require the prospective lessor to disclose the energy use intensity for the total property, measured on a square foot basis, and the annual energy usage for the total property, calculated in accordance with Energy Star standards, as defined in s. 13.48 (15) (b), and shall verify and forward this information to the building commission before the commission considers approval of the lease, or the renewal or extension of the lease. The department shall also require other agencies, as defined in s. 16.70 (1e), that have authority to enter into leases for real property to obtain and

verify
certify

the same information to the commission before entering into any lease, or renewing or extending any lease, for property to be used for office facilities. The department shall, with the governor's approval, require physical consolidation of office space utilized by any executive branch agency having fewer than 50 authorized full-time equivalent positions with office space utilized by another executive branch agency, whenever feasible. The department shall lease or acquire office space for legislative offices or legislative service agencies at the direction of the joint committee on legislative organization. In this subsection, "executive branch agency" has the meaning given in s. 16.70 (4).

History: 1971 c. 183; 1975 c. 41 s. 52; 1977 c. 418; 1979 c. 34, 221; 1981 c. 314; 1983 a. 36 s. 96 (4); 1983 a. 435 s. 7; 1983 a. 524; 1985 a. 135 s. 83 (5); 1987 a. 27; 1989 a. 31; 1991 a. 39, 269; 1995 a. 27, 174; 2001 a. 16; 2003 a. 33, 321.

INS 5-18: ✓

(#) The treatment of sections 13.48 (15) and 16.84 (5) of the statutes and the creation of section 13.48 (15) (b) of the statutes first ^{apply} ~~applies~~ with respect to leases of real property by the state that are entered into, renewed, or extended on the effective date of this subsection.

↑ the renumbering and amendment of section 13.48 (15) of the statutes ↑

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3485/P2dn

JTKg.....

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Representative Molepske:

1. This draft now contains items (1) a. and b. i., ii., and iii. and d. and (2), (3) and (4) except as they apply to local governments other than schools. Other segments will follow shortly.

2. In the past quarter century, this state has generally not constructed office buildings. Instead, it has entered into a lease with option to purchase a customized building on a specific site which has then been constructed expressly for the state by a private developer. The state has then exercised its right to purchase the building at the time of initial occupancy. As a result, this draft, in proposed s. 13.48 (2) (jm), takes account not only of construction of office buildings by this state but also of construction of office buildings for this state by private developers who are operating under a state lease with option to purchase. ✓

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3485/P2dn
JTK:cjs:jf

October 7, 2009

Representative Molepske:

1. This draft now contains items (1) a. and b. i., ii., and iii. and d. and (2), (3), and (4) except as they apply to local governments other than schools. Other segments will follow shortly.
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